

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT GARRISON,

Plaintiff,

v.

DOUG WADDINGTON, et al.,

Defendants.

Case No. C05-5487RJB

ORDER ADOPTING REPORT AND  
RECOMMENDATION

This matter comes before the court on the Report and Recommendation of Magistrate Judge Karen L. Strombom (Dkt. 119). Said Report and Recommendation recommends the granting of the Defendants' Motion for Summary Judgment (Dkt. 38), which was filed on July 21, 2006. A granting of the Defendants' Motion for Summary Judgment will result in the dismissal of the case. The court has considered the Report and Recommendation and the entire file, including plaintiff's Notice of Appeal of the Order Denying Plaintiff's Motion for Class Certification (Dkt. 116), and Plaintiff's "Notice: Plaintiff's Access to the Court was Interfered With. And This 'Late-Filed Pleading' is Requested to Explain and Provide For Rehearing of the 2-22-08 Report and Recommendation"(sic) (Dkt. 123), and Plaintiff's "Motion for Help to Get Case File and Federal Cases, to File Response" (Dkt. 124).

Regarding plaintiff's Notice of Appeal of Order Denying Certification of Class Action Entered on January 8, 2008, the court notes that the pendency of that appeal "does not stay proceedings in the district court unless the district judge or the Court of Appeals so orders." Federal Rule of Civil Procedure 23(f). No such order staying proceedings has been entered.

1 The file reflects that plaintiff has been provided with numerous extensions to respond to the  
2 motion for summary judgment and has had some seventeen months to file a response to the motion.  
3 He has not filed any response going to the merits of the Defendants' Motion for Summary Judgment.  
4 His current efforts to prevent entry of a summary judgment of dismissal, found in Docket Numbers  
5 123 and 124, request further delay but give no indication that "for specified reasons," plaintiff  
6 "cannot present facts essential to justify . . . opposition." Such a showing is required by Federal  
7 Rule of Civil Procedure 56(f) in order to justify a continuance. Plaintiff requests that the court assist  
8 him in requiring that defendants provide certain books and records to him, but makes no showing  
9 that receipt of such books and records would allow him to "present facts essential to justify . . .  
10 opposition" to the motion.

11 For the reasons stated in the Report and Recommendation, Defendants' Motion for Summary  
12 Judgment should be granted and the case should be dismissed.

13 Therefore, it is now ORDERED:

- 14 (1) The court adopts the Report and Recommendation (Dkt. 119);  
15 (2) Defendants' Motion for Summary Judgment (Dkt. 38) is GRANTED;  
16 (3) Plaintiff's claims against the defendants are dismissed with prejudice;  
17 (4) All pending motions are DENIED AS MOOT in light of this dismissal; and  
18 (5) The Clerk of the Court is instructed to send uncertified copies of this Order to plaintiff,  
19 counsel for defendants and The Honorable Karen L. Strombom.

20 DATED this 21<sup>st</sup> day of March, 2008.

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22 ROBERT J. BRYAN  
23 United States District Judge  
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